

**Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554**

In the Matter of Utilities Telecom)	
Council and Winchester Cator LLC)	
)	
Petition for Rulemaking to Establish)	RM- 11429
Rules Governing Critical Infrastructure)	
Industry Fixed Service Operations in)	
the 14.0-14.5 GHz Band)	

To: The Commission

OPPOSITION OF HISPASAT, S.A

Hispasat, S.A. (Hispasat) is on the Permitted List of commercial satellite providers of service to and from the United States. It provides service in the uplink 14.0-14.5 GHz fixed- satellite service (FSS) band. In response to the Commission's May 27, 2008 Public Notice,¹ it hereby files this opposition to the Utilities Telecom Council's (UTC) above- referenced Petition for Rulemaking.² In the Petition, UTC requests that the Commission amend Parts 2 and 101 to permit a new secondary fixed service allocation in the 14.0–14.5 GHz band. UTC claims that critical infrastructure industries (CII) would use this spectrum for public safety, homeland security, and particularly for emergency response. At the same time, the spectrum would be leased by Winchestor Cator, LLC for commercial use. As shown below, this proposed

¹ See *Consumer and Governmental Affairs Bureau, Reference Information Center, Petitions For Rulemaking Filed*, Public Notice, Report No. 2868 (rel. May 27, 2008).

² Utilities Telecom Council and Winchester Cator, LLC, Petition for Rulemaking to Establish Rules Governing Critical Infrastructure Industry Fixed Service Operations in the 14.0–14.5 GHz Band (filed May 6, 2008) ("UTC Petition").

use of the 14.0-14.5 GHz band would cause potentially harmful interference both to existing satellite services and to the proposed new terrestrial service. As such, Hispasat urges the Commission to deny this Petition.

I. INTRODUCTION

Hispasat is supporting a number of FSS earth station licensees in the 14.0-14.5 GHz band, and expects to be able to support additional earth stations. These licensees have a Primary status in the band. The proposed secondary use of the band for “critical” Fixed Service applications has the potential for adversely impacting future growth of the FSS applications in the band, and could result in the interruption of the proposed “critical” service at a time it is most needed.

The regulatory bases for the proposed service are questionable and will not provide the necessary protection they require.

II. TECHNICAL/REGULATORY CONSIDERATIONS

II A.- TECHNICAL CONSIDERATIONS

The Petitioners’ claim that their FS wireless services will accept all interference from FSS systems is unrealistic due to the emergency nature and technical specification of the proposed CII systems. The Petitioners state that CII applications are “critical” and “require high availability (99.999%).”³ This type of critical application is unusual for a secondary service that will be

³ *Petition* at attached RKF Report, § 2.

forced to accept interference from primary users in the same frequency band,⁴ and it strains credulity to believe that protection for such services will not be sought by Petitioners in the future. Moreover, many Ku-band FSS applications are designed to respond to emergency situations. As a result, emergencies would result in a convergence of primary FSS and secondary, wireless CII terminals in the same area – leading to a situation whereby the secondary CII terminals’ functionality could be disrupted by harmful interference from the FSS terminals and thus the CII terminals would not be able to accomplish emergency operations. It is incomprehensible that CII applications will be able to perform their critical functions as outlined in the Petition if they are licensed as a secondary service.

Petitioners also wrongly claim that they are entitled to assert that their proposal protects the FSS from harmful interference if their operations do not cause an increase of six percent or more in the noise temperature of the FSS receivers.⁵ This is incorrect. This 6% $\Delta T/T$ criterion is the level FSS operators look to for the purpose of determining whether further coordination is required between two FSS networks. In other words, it is an interference metric that applies between two users of the primary FSS allocation, both of which have equal spectrum rights. Allocation standards dictate that primary users are entitled to cause a level of interference within a frequency band

⁴ It takes less than two minutes of outages a day to preclude an application from meeting a 99.999% availability objective.

⁵ *Petition* at attached Report, § 2, n.2. The criterion is referred to as 6% $\Delta T/T$.

that secondary or non-interference-basis users are not. Secondary users of FSS bands are – in the aggregate with all other sources of potential interference apart from other FSS networks – allocated a collective 1% contribution to the noise an FSS link is designed to tolerate. Thus, as a putative secondary operation, the proposed CII FS stations collectively could produce no more than a fraction of a 1% $\Delta T/T$ increase in order to be found compatible with the FSS.⁶ By Petitioners’ own admission, they fail this test.

II B.- REGULATORY CONSIDERATIONS

The Petition proposes rules for a new Fixed secondary service in a band where the Fixed Satellite Service has Primary status. In addition it proposes to engage in any necessary coordination to protect those services. The regulatory concept of “secondary service” and coordination are fundamentally incompatible.

Under both domestic and international definitions of secondary service, such a service must accept any interference from a primary service and not cause any harmful interference to a Primary service. In addition, coordination can only take place, between services of equal status.

As a secondary service the proposed fixed service could be required to terminate its service whenever an FSS link in the same band received unacceptable levels of interference in connection with the provision of its

⁶ See International Telecommunication Union Radiocommunication Sector (“ITU-R”) Recommendation S.1432-1, Apportionment of the allowable error performance degradation to the fixed-satellite service hypothetical reference digital paths arising from time invariant interference for systems operating below 30 GHz (2006).

service. Under the definitions of Primary and secondary, the secondary service must accept any interference caused to it by the Primary service. Such interference could occur at any time particularly during emergency situations when FSS earth stations in this band which can be transportable, may be repositioned.

Finally, were the secondary service applications to become wide spread they could result in what has been termed “super primary”. In other words, as a result of the importance of the proposed application, such an application would demand protection greater than that afforded to the existing Primary use, and in consequence would have an adverse impact on the existing and future use of the band by the FSS.

III. SUMMARY/CONCLUSION

In summary, Hispasat concludes that while the proposed service is important, its proposed use of the 14.0-14.5 GHz would have adverse consequences to both the existing and proposed FSS services. Therefore, this Petition should be denied.

Respectfully submitted,

HISPASAT, S.A.

By: /s/ Donald M. Jansky

Jansky/Barmat Telecommunications, Inc.
1120 19th Street, N.W., Suite 333
Washington, DC 20036
(202) 467-6400

June 26. 2008

Consultant to Hispasat, S.A.

CERTIFICATE OF SERVICE

I, Rochelle D. Johnson, do hereby certify that on this 26th day of June, 2008, I sent by U.S. first-class, postage prepaid mail, a copy of the foregoing Opposition of HISPASAT, S.A. to the following:

Henry Goldberg, Esq.
Jonathan Wiener, Esq.
Devendra T. Kumar, Esq.
Thomas S. Tycz, Senior Policy Advisor
Goldberg, Godles, Wiener & Wright
1229 19th Street, N.W.
Washington, D.C. 20036

Jill M. Lyon, Esq.
Vice President and General Counsel
Utilities Telecom Council
1901 Pennsylvania Avenue, N.W.
Fifth Floor
Washington, D.C. 20006

/s/ Rochelle D. Johnson

Rochelle D. Johnson